

**REMARKS**

Claims 1-17, 20-29, 32-33, and 35-41 were examined in the subject Office action dated 21 February 2008. In response thereto, claims 1-17, 20, 22-30, 32-34 and 40-41 have been amended, claims 34 and 39 canceled, claims 42-47 added, and claims 21 and 35-38 remain currently pending in the subject application under active prosecution, as shown in Pages 2-9 of the Reply. Applicants assert that the amendments are supported by the original Specification and do not introduce new subject matter. Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

Applicants are grateful for the courtesy extended by the Examiner to discuss the pending Office action on 15 April 2008 with Applicant's representative David Franklin. The proposed claim amendment to claim 23 and new claims 42-47 discussed at that time are included herein. The other independent claims have been amended herein consistent with the discussed changes to claim 23. Applicants also pointed out support in the Specification at least at paragraphs [0045]-[0050] that describe FIG. 6. Aspects therein address a problem of visually prioritizing messages in relation to a plurality of real-time conversations as described particularly in Para. [0012], which is not contemplated by the cited references of Clark and Matsubara.

**I. Rejection of Claims 6-17, 20-22, 25, 28-30 Under 35 U.S.C §112**

Claims 16-17, 20-22, 25, 28-30 recite the limitations "in a cluster" and "the clusters" and "within any one cluster" etc. There is insufficient antecedent basis for these limitations in the claims, as the cluster limitations have been removed from the parent claims. Each independent claim has been amended to reintroduce a limitation of "clusters" to provide antecedent basis for these dependent claims. Reconsideration and withdrawal of the rejection under §112 is respectfully requested.

**II. Rejection of Claims 1, 3-17, 20-23, 25-30, 32-33, 35-38 Under 35 U.S.C §103(a)**

Claims 1, 3-17, 20-23, 25-30, 32-33, 35-38 stand rejected under 35 U.S.C. §103(a), as being unpatentable over Clark, *et al.* US Patent No. 6725228 issued April 20, 2004 and filed October 31, 2000, in view of Matsubara, *et al.* (hereinafter Matsubara) U.S. Patent Publication No. 20040201668 published October 14, 2004 and filed April 11, 2003. It is respectfully

submitted that this rejection should be withdrawn for at least the following reasons. The combination of Clark and Matsubara fails to teach all of the claim limitations.

Often, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue. To facilitate review, this analysis should be made explicit. *See KSR v. Teleflex*, 550 U.S. \_\_\_, 127 S. Ct. 1727 (2007) citing *In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006) (“*Rjections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness*”).

A factfinder should be aware, of course, of the distortion caused by hindsight bias and must be cautious of arguments reliant upon *ex post* reasoning. See *KSR v. Teleflex*, 550 U.S. \_\_\_, 127 S. Ct. 1727 (2007) citing *Graham v. John Deere Co. of Kansas City*, 383 U. S. 1, 36 (warning against a “temptation to read into the prior art the teachings of the invention in issue” and instructing courts to “guard against slipping into the use of hindsight” (*quoting Monroe Auto Equipment Co. v. Heckethorn Mfg. & Supply Co.*, 332 F. 2d 406, 412 (CA6 1964))).

Turning to independent claim 1, the claim has been amended to recite a system comprising an organization component that detects a first real-time communication between the first participant and the user, that determines an active characteristic of the received first message in response to associating the first participant with the first message, that determines the second message to be inactive, and that dynamically organizes the first message determined to be active in a prominently displayed cluster and dynamically organizing the second message in a less prominently displayed cluster. One particular advantage of the claimed invention is recounted in the Summary of the Invention, Para. [0012]:

It should be appreciated that the present invention as described can be applied to the management and organization of messages as previously defined above as well as other applications such as when a user is attempting to multi-task between more than one real-time communications channel. Thus, the invention can facilitate managing and organizing according to priority, for example, an open

telephone conversation, an open video conference or a live meeting with or without a whiteboard, a chat conversation, and/or an instant messaging conversation. Once again, the invention can rank and organize the respective communication channels with respect to parties involved (e.g., party or parties on the other end), type of communication in terms of stability and bandwidth required (e.g., video conferencing can require more hardware and/or software resources whereas a chat conversation may not), in addition to the other ranking preferences previously mentioned.

The cited reference of Clark is directed to organizing e-mail messages. While the Peer-to-Peer file management system of Matsubara does not introduce cognizance of user availability for downloading a file, the teachings of Matsubara do teach or suggest the claimed limitations. Furthermore, Applicants assert that the particular problem addressed by the claimed invention is not contemplated by the cited references.

Consequently reconsideration and allowance is respectfully requested for claim 1, as well as for claims 2-17, 20-22, and 35-38 that depend there from.

Turning to independent claim 23, the claim as amended recites in method form features described above for claim 1. For at least the same reasons, reconsideration and allowance of claim 23 is respectfully requested, as well as for claims 24-30, 32, 40 and 42-47 that depend there from.

Turning to independent claim 33, the claim as amended recites features in means-plus-function form features described above for claim 1. For at least the same reasons, reconsideration and allowance of claim 33 is respectfully requested, as well as for claim 41 that depends there from.

### **III. Rejection of Claims 2, 24, 34, 39, 40 and 41 Under 35 U.S.C §103(a)**

Claims 2, 24, 34, 39, 40 and 41 stand rejected under 35 U.S.C. §103(a), as being unpatentable over Clark, *et al.* US Patent No. 6725228 issued April 20, 2004 and filed October 31, 2000, in view of Matsubara, *et al.* (hereinafter Matsubara) U.S. Patent Publication No. 20040201668 published October 14, 2004 and filed April 11, 2003, in further view of Voticky, *et al.* (hereinafter Voticky) US Patent No. 6351764 issue February 26, 2002. Applicants assert that

the additional reference of Voticky fails to correct the deficiencies of the other cited references of Clark and Matsubara. Insofar as claims 2, 24, 34, 39, 40 and 41 depend from base or intervening claims discussed above that should be allowable over the cited references, these claims should be allowable as well. Reconsideration and allowance is respectfully requested.

**CONCLUSION**

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [MSFTP554US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicant's undersigned representative at the telephone number below.

Respectfully submitted,

AMIN, TURNEY & CALVIN, LLP

*/Himanshu S. Amin/*

Himanshu S. Amin

Reg. No. 40,894

AMIN, TURNEY & CALVIN, LLP  
24<sup>TH</sup> Floor, National City Center  
1900 E. 9<sup>TH</sup> Street  
Cleveland, Ohio 44114  
Telephone (216) 696-8730  
Facsimile (216) 696-8731